

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DOMINIC LATRELL RYLANDER,
#1925918

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VS.

CIVIL ACTION NO. 4:13CV707

COLLIN COUNTY SHERIFF
OFFICE, ET AL.

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ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge (the “Report”) (Dkt. 67), which contains her findings, conclusions, and recommendation for the disposition of the Complaint (Dkt. 1), has been presented for consideration. The Report recommends that Deputy Rick Allen be dismissed from the lawsuit without prejudice, pursuant to Federal Rule of Civil Procedure 4(m). Rylander has filed written Objections (Dkt. 73). Having made a *de novo* review of the Objections, the court concludes that the findings, conclusions, and recommendation of the Magistrate Judge are correct.

Rylander objects to the Magistrate Judge’s conclusion that Deputy Allen should be dismissed from the lawsuit without prejudice due to non-service. Dismissal for delayed service is mandatory absent a showing of good cause. *See* FED. R. CIV. P. 4(m); *McDonald v. United States*, 898 F.2d 466, 468 (5th Cir. 1990). Good cause requires at least as much as would be required to show excusable neglect. *See Johnson v. Berry*, 98 F.3d 1338 (5th Cir. 1996). A claimant must establish “some reasonable basis for noncompliance within the time specified.” *Id.* (quoting *Winters v. Teledyne Movable Offshore, Inc.*, 776 F.2d 1304, 1306 (5th Cir. 1985)).

This action was initiated on November 22, 2013. *See* Dkt. 1. Since then, Rylander has not managed to effect service on Deputy Allen. Rylander states that he has been unable to obtain a valid address for Deputy Allen. *See* Dkt. 73 at 1. Rylander further asserts that, so long as he is incarcerated, it will continue to be “impossible” for him to locate Deputy Allen, due to his limited access to the telephone, internet, and other resources which might aid in locating Allen. *See id.* Rylander has not shown good cause why the court should not dismiss claims against Deputy Allen in light of Rylander’s apparent inability to effect service within a reasonable time period.

In light of the foregoing, it is **ORDERED** that Plaintiff’s Objections (Dkt. 73) are **OVERRULED**.

It is further **ORDERED** that the Report and Recommendation (Dkt. 67) is **ADOPTED**.

It is further **ORDERED** that Defendant Rick Allen is **DISMISSED** from the lawsuit without prejudice.

SIGNED this the 22nd day of March, 2017.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE